



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 4139-99
7 March 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board noted that the minimum criteria for retirement due to the effects of a duodenal ulcer at the time of your discharge were a moderately severe condition with continuous manifestations of anemia, malnutrition and impairment of health, or with recurring incapacitating episodes averaging 10 days in duration and occurring several time a year. The Board was not persuaded that you met those criteria. In this regard, it noted that the report of your final periodic physical examination, dated 20 August 1958, indicates that during the preceding eighteen months, you had missed only three or four days of work because of epigastric distress, which usually responded to rest and antacids. You had not had symptoms of obstruction, perforation or hemorrhage. The results of laboratory studies were found to be within normal limits, although x-ray studies indicated you still had an active duodenal ulcer. There was no evidence of anemia, malnutrition, or incapacitating episodes averaging 10 days in duration. The fact that neither the cause nor the cure of your ulcer disease was known at the time of your discharge is immaterial to the rating assigned. The periodic exacerbations of your condition which occurred after your discharge were within the purview of the Department of Veterans Affairs (VA) rather than the Department of the Navy. In this

regard, it should be noted that whereas ratings assigned by the Navy are fixed as of the date of separation or permanent retirement, those assigned by the VA may be raised or lowered throughout a veteran's lifetime, to reflect changes in the severity of the rated condition.

In view of the foregoing, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director